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Algeria: Halt repression of fracking and unemployment protesters

Algeria's authorities have stepped up their crackdown on protesters against unemployment and shale gas exploration through hydraulic fracture (fracking) in the first half of 2015, Amnesty International said today.

Over the past six months, 17 people, including members of the National Committee for the Defence of the Rights of the Unemployed (Comité national pour la défense des droits des chômeurs, CNDDC), a group which has been protesting for many years against the lack of employment for people in the oil and gas-rich central and southern regions of the country, have been prosecuted in relation to their involvement in demonstrations; 16 of them have been sentenced to terms of imprisonment of between four months and two years. Three others, including two CNDDC activists and a cartoonist, have been prosecuted after they posted online comments on demonstrations against fracking and other issues and criticized the arrest of activists; one of them was sentenced to a four-month prison term. Amnesty International fears that the prosecutions were politically motivated, in reprisal for their activism and criticism of the authorities.

In carrying out the crackdown, the Algerian authorities have used an array of repressive laws that are used to quell dissent and peaceful protest more generally, violating their international human rights obligations.

Behind bars for peaceful protest

On 30 December 2014, inhabitants of the town of In Salah, near the large Ahnet water basin, some 1,200km south of Algiers, protested to denounce the lack of consultation around plans to begin shale gas exploitation using fracking, and the lack of information on the resulting environmental risks. In January, anti-fracking protests spread to other Algerian cities including Ouargla, Laghouat and El Oued.

In January 2015, police arrested nine CNDDC activists from the town of Laghouat, 400km south of Algiers. All nine are known in Laghouat for their participation in protests against unemployment and economic conditions. On 17 January 2015, they had taken part in a protest in Laghouat in solidarity with anti-fracking demonstrators in the southern town of In Salah.

Five days later, police officers arrested Mohamed Rag, 31, and his neighbour in Laghouat. The men later told the court they found police officers in front of their homes and that both were taken to the police station for questioning about a car theft suspect whom they were trying to arrest. Police officers later claimed both men were blocking the road and

threw rocks at them, obstructing their attempt to find and arrest the car theft suspect.

Both men were detained and charged with “assaulting a law enforcement officer in the exercise of his duties”, under Article 148 of the Penal Code, an accusation which they both rejected, and which was also contradicted by two defence witnesses who said they were with the men at the time. In spite of this, on 11 February 2015 the Court of Laghouat relied on the police’s account of the arrests to convict both men and sentence them to 18-month prison terms and fines of 20,000 Algerian dinars (about 200 US dollars), which were then confirmed on appeal. They were also ordered to pay court costs and compensation.

Friends and supporters of Mohamed Rag who came to support him during a trial hearing on 28 January 2015 were also arrested and imprisoned. That day, police arrested eight CNDDC activists outside the court building, including Belkacem Khencha, 42, Beelmi Brahimi, 41, Benallal Mazouzi, 38, Boubakeur Azzouzi, 34, Belkacem Korini, 32, Faouzi Benkouider, 35, Tahar Bensarkha, 33, and Abdelkader Djaballah, 26. They were detained and charged with taking part in an “unarmed gathering” and disobeying orders to disperse (Articles 97 and 98 of the Penal Code) and for causing an offence to magistrates and “exercising pressure on the decisions of magistrates” (Articles 144 and 147 of the Penal Code) in reference to banners calling for the release of Mohamed Rag and an end to humiliation (*hogra*) and alleged chanted slogans in the same vein.

Some defendants told the court that, although they were intending to protest peacefully outside the court building, police arrested them before they even began to do so. Some stated that they had gone to the court to observe the trial but were not allowed in. Others said they had gone to court for unrelated reasons. Local sources also told Amnesty International that the men were arrested before the peaceful protest was due to begin.

On 11 February 2015, the Court of Laghouat convicted the eight activists on all counts and sentenced each one of them to 12-month prison terms including six months of suspended imprisonment. The court also ordered them to pay court costs and compensation. The court upheld their convictions and sentences on appeal.

Once more, friends and supporters were not allowed to observe hearings or peacefully express their solidarity. Police officers were reportedly deployed on 11 March as appeal hearings took place for Mohamed Rag, his neighbour and the eight activists, barring the public from access to the proceedings, in violation of the right to a public trial. The police also arrested some 50 people who were demonstrating in solidarity with the defendants, and released them later.

Several of the CNDDC activists prosecuted in recent months had previously been arrested and prosecuted for their participation in protests. In 2013, after demonstrating for the right to work in Laghouat, Mohamed Rag was tried for participating in an illegal gathering, incitement to an unarmed gathering and destruction of public goods and was acquitted. He was also tried and acquitted of charges linked to his participation in a protest in June 2014. Mohamed Rag, Belkacem Khencha, Beelmi Brahimi, and Boubakeur Azzouzi were also prosecuted for their participation in another protest in Laghouat and acquitted in November 2014.

In the southern town of Adrar near In Salah, prominent CNDDC member and anti-fracking activist Mouhad Gasmi described to Amnesty International how police summoned him and fellow activists in relation to a peaceful protest. On 12 May 2015, police in Adrar summoned around 30 activists including Mouhad Gasmi for questioning the following day. He was summoned for allegedly inciting youth to take part in an unarmed gathering several months earlier. He told Amnesty International that he had taken part in the peaceful protest calling for greater resources for the city's hospital, where a young man had died due to a lack of medicines, but believed he and others summoned for questioning were being targeted for their broader peaceful activism in the city since 2011.

Jailed for a Facebook post

On 1 March 2015, anti-corruption activist and CNDDC member Rachid Aouine accompanied activist Ferhat Missa to a police station in the town of El Oued (620km south-east of the capital Algiers) to file a complaint. However, police arrested Rachid Aouine in relation to a comment he had posted on Facebook about an announcement by the Algerian authorities that police officers who protest will be subjected to disciplinary action. His comment was: "Police officers, why don't you go out to protest today against the arbitrary decisions against your colleagues in spite of the Minister of Interior's pledge not to prosecute protesters. Instead, all you do is keep a watch on free-spirited activists and protesters against shale gas". He told Amnesty International that, after police questioned him, they searched his home and confiscated his computer and memory drives.

On 9 March, he was sentenced by the El Oued Court of First Instance to six months' imprisonment and a fine of 20,000 Algerian dinars (about 200 US dollars) for "incitement to an unarmed gathering", under Article 100 of the Algerian Penal Code. On 15 April, his sentence was reduced on appeal to four months' imprisonment and a fine of 20,000 Algerian dinars (about 200 US dollars). He has served his sentence in full and been released. The prosecution relied solely on his Facebook comment, which he said was ironic, and failed to prove that he made any demonstrable efforts to incite policemen to protest, he later told Amnesty International.

Police also detained and questioned Ferhat Missa, who was later charged with "incitement to an unarmed gathering", apparently solely on the basis of participating in a demonstration to protest at the local authorities' inaction following flooding in the area in January 2015. He was released on bail pending his trial and was acquitted on 16 March. The decision was confirmed on appeal.

Similar tactics to the ones used against the CNDDC protesters in Laghouat were used to punish people who protested against Rachid Aouine's prosecution in El Oued. At a trial hearing on 3 March, police officers arrested relatives and friends of Rachid Aouine who were outside the court peacefully protesting against his arrest. One of them told Amnesty International that the protest had barely been going for a few minutes when police dispersed it with blows and insults against protesters, arresting some 24 people. He said that officers continued to insult and hit some activists during arrest and transfer to the local police station.

Although many, including Rachid Aouine's mother and wife, were released without charge

after a few hours, 12 were reportedly kept for further questioning. Six of them, including CNDDC member Youssef Soltane, faced charges such as “incitement to an unarmed gathering” and “insulting a public body”. On 30 April, all six were convicted and Youssef Soltane and a second defendant were sentenced to four months’ imprisonment and a fine of 50,000 Algerian dinars (about 500 US dollars) while the four remaining defendants received four-month suspended prison sentences. They remain at liberty pending an appeal court hearing.

Others were arrested for Facebook posts about the protests and associated repression of protesters, but were not imprisoned. Abdelhamid Brahimi, another member of the CNDDC from El Oued, was arrested on 3 March 2015, after his posts on Facebook, criticizing the arrests by police of Rachid Aouine’s relatives and supporters. He was charged with “incitement to an unarmed gathering” and tried, before being acquitted on 9 March. The verdict was confirmed on appeal.

Cartoonist prosecuted for “insulting the President”

On 20 April, Tahar Djehiche, a cartoonist from El M’Ghair in the province of El Oued, was summoned to the police station. His lawyer told Amnesty International that he was interrogated about a cartoon he posted on his Facebook account showing President Abdelaziz Bouteflika being buried in sand inside a sandglass, in reference to the anti-fracking protests in the area of In Salah since December 2014. He was also interrogated about a comment he posted on Facebook ahead of a shale gas protest in In Salah on 24 February 2015 saying “Don’t leave In Salah alone on 24 February”, his lawyer said.

The cartoonist was released and summoned to a hearing with the public prosecutor at the Court of El M’Ghair five days later. The public prosecutor questioned him about the same cartoon and comments he made on Facebook and charged him with “insulting the President” (Article 144 bis of the Penal Code) and “incitement to unarmed gathering” before releasing him pending trial. On 26 May, the court acquitted him of all charges. The prosecution has appealed the decision and a date is yet to be set for the next hearing.

Array of repressive laws

The Algerian authorities have relied on an array of repressive laws to quell dissent. The Penal Code contains several provisions which are used to criminalize peaceful assembly under some circumstances, although peaceful assembly is a right guaranteed in the Algerian Constitution and in international human rights treaties ratified by Algeria. Article 97 of the Penal Code prohibits unarmed gatherings in public spaces which are deemed to have the potential to disturb public order, an offence which under Article 98 is punishable by up to three years in prison if participants fail to obey dispersal orders. Article 100 imposes up to one year in prison for “incitement to an unarmed gathering” through public speech, writings or print. These provisions have been used to prosecute CNDDC members in Laghouat and El Oued who were only exercising their legitimate rights to freedom of expression and peaceful assembly.

In addition, Law 91-19 on public meetings and demonstrations prohibits public meetings on the public highway. It allows public meetings when they are not on the public highway and not deemed to pose a threat to public order or “good morals”. In such cases, the law states that public meetings can be freely held, but nonetheless require prior notification to

the authorities, upon which a receipt should be immediately delivered. In practice, the receipt is often withheld by the Ministry of Interior when the planned event is likely to be critical of the authorities.

To that extent, the notification requirement amounts in practice to a requirement to obtain prior authorization for any such meeting. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has stressed that the exercise of the right to freedom of peaceful assembly should not be subject to prior authorization by the authorities, but at the most to a prior notification procedure, which should not be burdensome. If restrictions are imposed, the authorities should provide a detailed and timely written explanation which can be appealed before an impartial and independent court.

Algerian legislation, mainly through the Penal Code, also criminalizes the legitimate exercise of the right to freedom of expression. For instance, Article 144 bis punishes causing offence to the President through discourse, drawings or writings, with a fine of up to 500,000 Algerian dinars (over 5,000 US dollars), which is a prohibitive sum in Algeria. The Algerian authorities made a small step in the right direction when they adopted Law No. 11-14 of 2 August 2011, modifying Articles 144 bis and 146 of the Penal Code to remove prison terms for public insult, offence and defamation against the President and other public officials. The amendment simultaneously increased the fines for the offence to up to 500,000 Algerian dinars (over 5,000 US dollars), doubled for reoffenders.

The following year, legislators introduced a new Information Code, removing prison sentences for offences related to defamation, but allows for higher fines than existed in the previous version of the law. For instance, Article 123 of the new Information Code imposes fines of up to 100,000 Algerian dinars (about 1,000 US dollars) for offending foreign diplomats in Algeria and foreign heads of state, as compared with the fines of up to 30,000 Algerian dinars and prison terms of up to a year that are stipulated in Article 98 of the previous Information Code.

Those deemed to have caused “offence to public officials in relation to the exercise of their duties, with the intention of undermining their authority” risk up to two years’ imprisonment and fines up to 500,000 Algerian dinars (over 5,000 US dollars) under Article 144. Meanwhile, Article 147 states that such offences extend to the criticism, through acts, discourse or writings, of judicial cases in which a judgement has not yet been issued, or those that can harm the authority or the independence of the judicial authorities.

The very high level of fines included in current legislation, in addition to provisions including prison terms, even where they are not implemented in practice, have a chilling effect on freedom of expression in Algeria. In 2012, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, following his visit to Algeria in April 2011, expressed concern at the disproportionately high level of fines for defamation offences, noting that they have a chilling effect on the right to freedom of expression in general by generating a continuous attitude of self-censorship. He recommended that defamation should be made a matter for civil rather than criminal action and that fines should be significantly reduced so as not to dissuade

the exercise of the right to freedom of expression, and that defamation laws should never be used to stifle criticism of state institutions or policies.

The UN Human Rights Committee has, in general, underlined the importance of uninhibited expression in the circumstances of public debate concerning public figures in the political domain and public institutions. It has stressed that the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties. It has expressly raised concern about laws on such matters as disrespect for authority, defamation of the head of state and the protection of the honour of public officials. It has stressed that states should not prohibit criticism of institutions, such as the army or the administration, and that laws should not provide for more severe penalties solely on the basis of the identity of the person who may have been subjected to criticism.

Public document

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